

Notice of Allowability

Application No.

09/701,132

Examiner

Carla Myers

Applicant(s)

REEVES ET AL.

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1634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed March 22, 2006.
2. ☒ The allowed claim(s) is/are 70-93.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>6/7/06</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date ____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other ____. |

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Edward Gamson on June 7, 2006.

The application has been amended as follows:

In claim 77, line 6, after "claim 70" -- to form hybridized nucleic acid molecules -- has been inserted.

In claim 78, line 6, after "claim 70" -- to form hybridized nucleic acid molecules -- has been inserted.

In claim 81, line 21, after "*E. coli*", the phrase "consists of SEQ ID NO: 57" has been deleted and -- comprises SEQ ID NO: 57, to form hybridized nucleic acid molecules-- has been inserted therefor.

In claim 81, line 25, after "under high stringency conditions" -- to form hybridized nucleic acid molecules -- has been inserted.

In claim 82, line 6, after "molecule" -- to form hybridized nucleic acid molecules, wherein said at least one nucleic acid molecule is -- has been inserted.

In claim 82, line 26, after "claim 70" -- to form hybridized nucleic acid molecules -- has been inserted.

In claim 82, line 29, at step (c) "molecules signifies the presence of the 0157 serotype from step (a) *E. coli*" has been deleted and -- molecules from step (a) signifies the presence of the 0157 serotype from *E. coli* -- has been inserted therefor.

In claim 83, line 3, after "a forward primer or a reverse primer" -- comprising a sequence -- has been inserted.

In claim 83, after the table and the recitation of "13731-13714" --the forward and reverse primers shown in the table above. -- has been inserted.

In claim 88, "primers shown in the Tables above" has been deleted and --the forward and reverse primers shown in the table above. -- has been inserted.

In claim 90, line 3, after "claim 70 and" -- a nucleic acid molecule comprising -- has been inserted.

The following is an examiner's statement of reasons for allowance:

A. The closest prior art of Fields and Ratiner teach methods for detecting H serotypes of *E. coli* and teach nucleic acids comprising sequences encoding for the *E. coli* flagellin protein. However, the prior art does not teach or suggest the presently claimed *E. coli* flagellin nucleic acids of SEQ ID NO: 13 or nucleic acids consisting of a fragment of SEQ ID NO: 13, wherein said fragment comprises 10 or more nucleotides of SEQ ID NO: 13.

B. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set

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forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 22, 2006 has been entered.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carla Myers whose telephone number is (571) 272-0747. The examiner can normally be reached on Monday-Thursday from 6:30 AM-5:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ram Shukla, can be reached on (571)-272-0735.

The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).


CARLA J. MYERS
PRIMARY EXAMINER
6/12/06